

**FILED**

**JAN - 2 2013**

**Board of Vocational Nursing  
and Psychiatric Technicians**

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8 **BEFORE THE**  
**BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. VN-2011-1

11 **COURTNEY KENTON BRODEUR**

12 1362 Balboa Street  
13 San Luis Obsipo, CA 93405

14 Vocational Nurse License No. VN 246612

15 Respondent.

**A C C U S A T I O N**

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this Accusation solely  
20 in her official capacity as the Executive Officer of the Board of Vocational Nursing and  
21 Psychiatric Technicians, Department of Consumer Affairs.

22 2. On or about December 15, 2009, the Board of Vocational Nursing and Psychiatric  
23 Technicians ("Board") issued Vocational Nurse License No. VN 246612 to Courtney Kenton  
24 Brodeur ("Respondent"). The Vocational Nurse License was in full force and effect at all times  
25 relevant to the charges brought herein and will expire on May 31, 2013, unless renewed.

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4. Section 118, subdivision (b) of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Pursuant to section 2892.1, the Board may renew an expired license at any time within four years after the expiration.

“(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.”

“The board may suspend or revoke a license issued under this chapter for any of the following:

...

...

1 (f) Conviction of a crime substantially related to the qualifications,  
2 functions, and duties of a licensed vocational nurse, in which event the record of the  
3 conviction shall be conclusive evidence of the conviction.”

4 7. Section 2878.5 of the Code states, in pertinent part:

5 “In addition to other acts constituting unprofessional conduct within the  
6 meaning of this chapter, it is unprofessional conduct for a person licensed under this  
7 chapter to do any of the following:

8 ...

9 (b) Use any controlled substance as defined in Division 10 of the Health  
10 and Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic  
11 beverages, to an extent or in a manner dangerous or injurious to himself or herself,  
12 any other person, or the public, or to the extent that the use impairs his or her ability  
13 to conduct with safety to the public the practice authorized by his or her license.

14 (c) Be convicted of a criminal offense involving possession of any  
15 narcotic or dangerous drug, or the prescription, consumption, or self-administration of  
16 any of the substances described in subdivisions (a) and (b) of this section, in which  
17 event the record of the conviction is conclusive evidence thereof.

18 (d) Be committed or confined by a court of competent jurisdiction for  
19 intemperate use of or addiction to the use of any of the substances described in  
20 subdivisions (a) and (b) of this section, in which event the court order of commitment  
21 or confinement is prima facie evidence of that commitment or confinement.”

## 22 REGULATORY PROVISIONS

23 8. California Code of Regulations, title 16, section 2521 states, in pertinent part:

24 “For the purposes of denial, suspension, or revocation of a license  
25 pursuant to Division 1.5 (commencing with Section 475) of the Business and  
26 Professions Code, a crime or act shall be considered substantially related to the  
27 qualifications, functions, or duties of a licensed vocational nurse if to a substantial  
28 degree it evidences present or potential unfitness of a licensed vocational nurse to  
perform the functions authorized by his license in a manner consistent with the public  
health, safety, or welfare. Such crimes or acts shall include but not be limited to those  
involving the following:

...

(c) Violating or attempting to violate, directly or indirectly, or assisting  
in or abetting the violation of, or conspiring to violate any provision or term of  
Chapter 6.5, Division 2 of the Code....”

9. California Code of Regulations, title 16, section 2518.6 states, in pertinent part:

“(b) A licensed vocational nurse shall adhere to standards of the  
profession and shall incorporate ethical and behavioral standards of professional  
practice which include but are not limited to the following:

(4) Abstaining from chemical/substance abuse; and

...

1 (c) A violation of this section constitutes unprofessional conduct for  
2 purposes of initiating disciplinary action.”

3 **COST RECOVERY**

4 10. Section 125.3 states, in pertinent part, that the Board may request the administrative  
5 law judge to direct a licensee found to have committed a violation or violations of the licensing  
6 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the  
7 case.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Conviction of a Substantially Related Crime)**

10 11. Respondent is subject to disciplinary action under section 490 and section 2878,  
11 subdivision and (f) of the Code in conjunction with California Code of Regulations, title 16,  
12 section 2521, in that Respondent has been convicted of a crime substantially related to the  
13 qualifications, functions and duties of a licensed vocational nurse, as follows:

14 12. On or about August 1, 2011, Respondent pled nolo contendere to and was convicted  
15 of one misdemeanor count of violating Vehicle Code section 23152(a) [driving under the  
16 influence of alcohol or drugs] in the criminal proceedings entitled *The People of the State of*  
17 *California v. Courtney Kenton Brodeur* (Super. Ct. of California, County of San Luis Obispo,  
18 2011, No. M000462683). As part of the plea, Respondent admitted violating Vehicle Code  
19 section 23152(b) [driving with a blood alcohol level of 0.08% or higher]. The court ordered  
20 Respondent to serve 20 days in jail and placed her on probation for 3 years, with terms and  
21 conditions. As part of probation, Respondent was required to complete a second offender driving  
22 under the influence program. The circumstances underlying the criminal conviction are that on or  
23 about June 30, 2011, a City of Atascadero Police Department officer observed Respondent's  
24 vehicle pull out of a parking lot in front of another vehicle. Upon contact with Respondent the  
25 officer observed Respondent's slow, deliberate movements and slow, slurred speech. When  
26 Respondent exited the vehicle, the officer observed Respondent to be unbalanced. Respondent  
27 told the officer that he had one glass of wine at a movie theater just prior to driving his vehicle. A  
28 blood test revealed 0.15% Blood Alcohol Concentration.

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1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Violations of the Licensing Chapter)**

3 17. Respondent is subject to disciplinary action under section 2878, subdivision (d) of the  
4 Code in that Respondent violated provisions of the Vocational Nursing Practice Act. The  
5 violations are described in more particularity in paragraphs 11 through 16 above, inclusive and  
6 hereby incorporated by reference.

7 **DISCIPLINARY CONSIDERATIONS**

8 18. To determine the degree of discipline, Complainant alleges, as follows:

9 19. On or about November 17, 2009, the Board sent a letter to Respondent indicating that  
10 his conviction is substantially related to the vocational nurse license and constitutes grounds for  
11 denial of his license. However, the letter also indicates that the Board will not pursue any  
12 disciplinary action against Respondent based upon the fact that he is complying with the  
13 conditions of his sentencing. The letter warns that future substantiated reports that he engaged in  
14 similar behavior or otherwise violated the law may result in disciplinary action against his license.

15 20. The circumstances underlying the letter are that on or about November 19, 2007,  
16 Respondent pled nolo contendere to and was convicted of one misdemeanor count of violating  
17 Vehicle Code section 23152(b) [driving with a blood alcohol level of 0.08% or higher] in the  
18 criminal proceedings entitled *The People of the State of California v. Courtney Kenton Brodeur*  
19 (Super. Ct. San Luis Obispo County, 2007, No. M407091). The Court sentenced Respondent to  
20 10 days in county jail and placed Respondent on three years probation, with terms and conditions.  
21 As part of probation, the court ordered Respondent to enroll and complete the First Offender  
22 Alcohol Program. The circumstances underlying the conviction are that on or about July 24,  
23 2007, Morro Bay Police Department officers were dispatched to a single motorcycle traffic  
24 collision. Upon contact with Respondent, the responding officer observed the moderate odor of  
25 alcoholic beverage emanating from his breath, slow, slurred speech and saw that his eyes were  
26 red and bloodshot. A Preliminary Alcohol Screening Test revealed 0.179% and 0.172% Blood  
27 Alcohol Content.

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1 **PRAYER**

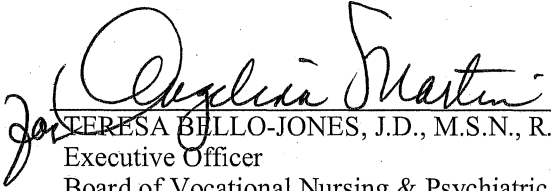
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
3 and that following the hearing, the Board issue a decision:

4 1. Revoking or suspending Vocational Nurse License No. VN 246612, issued to  
5 Courtney Kenton Brodeur;

6 2. Ordering Courtney Kenton Brodeur to pay the Board the reasonable costs of the  
7 investigation and enforcement of this case, pursuant to Business and Professions Code section  
8 125.3; and

9 3. Taking such other and further action as deemed necessary and proper.

10  
11 DATED: January 2, 2013

12   
13 TERESA BELLO-JONES, J.D., M.S.N., R.N.  
14 Executive Officer  
15 Board of Vocational Nursing & Psychiatric Technicians  
16 State of California  
17 Complainant  
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